

Regular Session, 2010

HOUSE BILL NO. 1199

BY REPRESENTATIVE MORRIS

LABOR: Provides with respect to private employment services

1 AN ACT

2 To amend and reenact R.S. 23:108(B)(1) and (C), 111(C)(10) and (11) and (F), and 113 and
3 to enact R.S. 23:108(F) and 111(C)(12), relative to employment services; to provide
4 penalties for violations; to provide a cause of action and legal recourse; to prohibit
5 certain actions by employment services; to provide for penalties for unlicensed
6 persons; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:108(B)(1) and (C), 111(C)(10) and (11) and (F), and 113 are
9 hereby amended and reenacted and R.S.23:108(F) and 111(C)(12) are hereby enacted to read
10 as follows:

11 §108. Violations by licensee; revocation or suspension

12 * * *

13 B.(1) For any act or omission in violation of any provision of this Part or any
14 rule or regulation prescribed hereunder, the ~~assistant secretary~~ director may levy a
15 fine not to exceed five hundred dollars per violation, suspend the license for a period
16 of not more than one year, or revoke any license issued under the authority of this
17 Part.

18 * * *

19 C. Should the ~~assistant secretary~~ director or his designee determine that an
20 applicant is entitled to a refund under any provision of this Part, or any rule or
21 regulation prescribed hereunder, the ~~assistant secretary is authorized to~~ director shall
22 issue an order to the employment service requiring the refund to be made.

23 * * *

1 F. Any applicant injured by the employment service or by his agents or
2 employees while acting within the scope of their employment, by reason of an
3 intentional misrepresentation, fraud or deceit, by reason of any other unlawful act or
4 omission, or by reason of any other violation of the provisions of this Part made or
5 committed in connection with the business licensed hereunder, shall have the right
6 to seek recovery of amounts paid by the applicant to the employment service plus
7 damages not to exceed twenty-five percent of the fee paid or other relief in any court
8 of competent jurisdiction. Attorney fees shall be awarded to the prevailing party in
9 such action.

* * *

§111. Regulation; restrictions and prohibitions

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13 C. An employment service shall not engage in the following conduct:

* * *

15 (10) Charge an applicant a fee when the employment service procures
16 employment for an applicant with a public or governmental employer.

(11) Permit an applicant to sign a power of attorney or assignment of wages, the form of which has not been approved by the office of unemployment insurance administration. The power of attorney shall be required to include the following terms and conditions:

(a) Any funds received by the employment service as a result of an applicant signing a power of attorney or assignment of wages shall be placed in an escrow checking account to be used exclusively for the receipt and disbursement of applicant's funds. This escrow account shall be kept separate from all other employment service's accounts. Upon receipt of an applicant's wages, the employment service shall immediately deposit said funds into the escrow account. The disbursement of any funds received by the employment service as a result of an applicant signing a power of attorney or assignment of wages shall be specifically limited as follows:

(i) The employment service may pay to itself the applicable placement fee plus legally allowable interest, not to exceed twelve percent per annum, authorized by the power of attorney.

(ii) The employment service shall distribute any and all of the remaining wages to the applicant.

(b) Upon receiving applicant's wages, the employment service shall promptly notify the applicant. The employment service shall deliver to the applicant any funds that the applicant is entitled to receive pursuant to the power of attorney agreement and, upon written request by the applicant, shall promptly render a full accounting regarding such funds.

(c) Complete records of such escrow account funds shall be kept by the employment service and shall be preserved for a period of five years from the termination of the power of attorney and assignment of wages executed by the applicant.

~~(11)~~ (12) Permit an applicant to sign a promissory note or negotiable instrument in an amount exceeding the appropriate fee plus legal interest or evidencing a legal interest in excess of twelve percent per annum.

* * *

F. In addition to the penalties provided for in R.S. 23:108, any person found by the director to have violated the provisions of Paragraph (C)(3) of this Section shall personally be liable for a fine of not less than five hundred dollars or more than fifteen hundred dollars per violation.

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§113. Violations of provisions; penalty

A person who acts as an employment service without a license as provided in this Part shall be ~~guilty of a misdemeanor or punishable~~ punished by a fine of not less than fifty nor more than ~~five hundred~~ one thousand dollars per violation, by imprisonment for not more than six months, or both.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Morris

HB No. 1199

Abstract: Provides for changes in regulation of employment services.

Present law provides that when a written complaint against an employment service licensee is filed alleging violations of present law, the allegation may be served on the licensee by personal delivery or by registered mail. Present law also provides that any act or omission in violation of present law shall carry a fine not to exceed \$500, suspension of the license for a period of not more than one year, or revocation of license.

Proposed law changes present law by providing that violations by the licensee may result in a fine not to exceed \$500 per violation.

Present law provides that if the assistant secretary determines that an applicant is entitled to a refund pursuant to present law, the assistant secretary is authorized to issue an order to the employment service requiring the refund to be made.

Proposed law provides that should an applicant be entitled to a refund the director shall issue an order to the employment service requiring a refund be made.

Proposed law provides that any applicant injured by an employment service, his agents, or employees while acting within the scope of his employment by reason of misstatement, misrepresentation, fraud or deceit, or other unlawful act shall have the right to seek recovery of amounts paid by the applicant to the employment service plus damages not to exceed 25% of the fee paid. Further provides for other relief including attorney fees.

Present law provides that employment services shall not engage in certain prohibited conduct.

Proposed law adds to present law by providing that an employment service may not charge an applicant a fee when employment is procured with a governmental employer.

Proposed law changes present law by providing for a fine for each violation.

Present law provides that a person acting as an employment service without a license shall be guilty of a misdemeanor punishable by a fine of not less than \$50 nor more than \$500, by imprisonment for not more than six months, or both.

Proposed law changes present law by providing that the an unlicensed person shall be punished with a fine of not more than \$1,000 per violation.

(Amends R.S. 23:108(B)(1) and (C), 111(C)(10) and (11) and (F), and 113; Adds R.S. 23:108(F) and 111(C)(12))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill.

1. Made technical changes.